

CAMPAIGN SPENDING COMMISSION

STATE OF HAWAII

IN RE THE MATTER OF	)	DOCKET 05-03
	)	
	)	CONCILIATION AGREEMENT
	)	
DALTON TANONAKA,	)	
DALTON FOR HAWAII CAMPAIGN,	)	
RUSSELL HATA, CAROL TSAI,	)	
MILES FURUTANI, AND LANCE	)	
MASATSUGU	)	
	)	
	)	
Respondents	)	
	)	
_____	)	

CONCILIATION AGREEMENT

On or around September 2004, Robert Y. Watada, Past Executive Director for the Campaign Spending Commission ("Commission"), initiated an investigation. The investigation was initiated pursuant to the express authority of section 11-193, Hawaii Revised Statutes ("HRS"), for a determination of whether the Hawaii campaign spending laws had been violated.

NOW, THEREFORE, Respondents Dalton for Hawaii ("DFHC") and Dalton Tanonaka ("Tanonaka") and the Commission, having entered into conciliation and pursuant to section 11-216(g), HRS, do hereby agree as follows:

- I. That the Commission has jurisdiction over Respondents DFHC and Tanonaka and the subject matter of this administrative action.

- II. That this Conciliation Agreement ("Agreement") and upon complete performance of the conditions stated herein has the effect of remedial or corrective action taken by Respondents DFHC and Tanonaka pursuant to section 11-216(g), HRS.
- III. That Respondents DFHC and Tanonaka have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- IV. That Respondents DFHC and Tanonaka waive the right to be heard at a public hearing conducted under chapter 91, HRS, pursuant to section 11-228(b), HRS.
- V. That Respondents DFHC and Tanonaka having voluntarily and fully cooperated with this investigation desires to resolve any potential litigation by entering into this Agreement with the Commission on their own volition and with full knowledge and understanding.
- VI. That parties agree to the pertinent facts as follows:
  1. On or around September 16, 2004, Professional Results, Inc. filed a complaint against Respondent Furutani alleging that Furutani provided legal services to Respondent DFHC and Tanonaka that should have been reported as contributions (Docket 04-05).
  2. On or around September 24, 2004, Professional Results, Inc. filed a complaint against Respondent DFHC alleging that illegal loans and contributions were made to DFHC and that DFHC had not reported expenditures (Docket 04-06).

3. On or around September 2004, Robert Y. Watada, in his capacity as Executive Director of the Campaign Spending Commission, initiated an investigation involving illegal contributions; and expenditures made by Respondents DFHC and Tanonaka in violation of particular campaign finance statutes.
4. On or around September 13, 2005, Executive Director Watada filed a complaint against Respondents Tanonaka, DFHC, Russell Hata, Carol Tsai, Miles Furutani, and Lance Masatsugu alleging illegal contributions; and unreported expenditures owed to Professional Results, Inc. (Docket No. 05-03).
5. Section 11-191, HRS, reads in part as follows: "Contribution" means:
  - (1) A gift, subscription, deposit of money or anything of value, or cancellation of a debt or legal obligation and includes the purchase of tickets to fundraisers for the purpose of:
    - (A) Influencing the nomination for election, or election, of any person to office:
    - (B) Influencing the outcome of any question or issue that appears or is reasonably certain to appear on the ballot at the next applicable election described in subparagraph (A);or
    - (C) Use by any party or committee for the purposes set out in subparagraph (A) or (B);

- (2) The payment, by any person political party, or any other entity other than a candidate or committee, of compensation for the personal services or services of another person that are rendered to the candidate or committee without charge or at an unreasonably low charge for the purposes set out in paragraph (1)(A), (1)(B), or (1)(C);
  - (3) A contract, promise, or agreement to make a contribution; provided that notwithstanding this paragraph and paragraphs (1) and (2), the term “contributions” shall not include services or portions thereof voluntarily provided without reasonable compensation by individuals to or in behalf of a candidate or committee; or
  - (4) Notwithstanding paragraphs (1), (2), and (3), a candidate’s expenditure of the candidate’s own funds or the making of a loan or advance in the pursuit of the candidate’s campaign shall not be a contribution for the purpose of this subpart but shall nevertheless be reportable as a campaign receipt.
6. A loan shall be treated and reported as a contribution if loan is not disclosed to the Commission; the terms and conditions of the loan are not incorporated into a written promissory note; or the loan is not fully repaid within one year from the effective date of the loan.
- Section 11-205.6, HRS; §2-14.1-13, Hawaii Administrative Rules.

7. Section 11-191, HRS, reads in part as follows: “Expenditure”

means:

- (1) Any purchase or transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, or payment incurred or made, or the use or consumption of a nonmonetary contribution for the purpose of:
  - (A) Influencing the nomination for election, or election of any person seeking nomination for election, or election, to office whether or not the person has filed the person’s nomination paper;
  - (B) Influencing the outcome of any question or issue that has been certified to appear on the ballot at the next applicable election; or
  - (C) Use by any party or committee for the purposes set out in subparagraph (A) or (B);
- (2) The payment, by any person other than a candidate or committee, or compensation for the personal services of another person that are rendered to the candidate or committee for any of the purposes mentioned in paragraph (1); or
- (3) The expenditure by a candidate of the candidate’s own funds for the purposes set out in paragraph (1).

- (4) The term does not include volunteer personal services and voter registration efforts that are not partisan.

8. Section 11-212(a), HRS, reads as follows:

- (a)(1) The candidate committee of each candidate whose name will appear on the ballot in the immediately succeeding election shall file a preliminary report with the commission or appropriate county clerk's office. Preliminary reports shall be filed on forms provided by the commission no later than 4:30 p.m. on the following dates:
  - (A) July thirtieth of the year of the primary election;
  - (B) Ten calendar days prior to each primary and initial special election; and
  - (C) Ten calendar days prior to a special or general election.
- (2) Each report shall be certified pursuant to section 11-195 and shall contain the following information which shall be current through the thirtieth calendar day prior to the filing of the report filed on the thirtieth of July and fifth calendar day prior to the filing of other preliminary reports:
  - (A) The aggregate sum of all contributions and other campaign receipts received;
  - (B) The amount and date of deposit of the contribution and the name and address of each donor who contributes an aggregate of more than \$100 during an election period, which has not previously been reported;

(C) The amount and date of deposit of each contribution and the name and address, employer and occupation of each donor who contributes an aggregate of \$1,000 or more during an election period, which has not previously been reported;

(D) All expenditures made, incurred, or authorized by or for a candidate, including the name and address of each payee and the amount, date, and purpose of each expenditure; and

(E) A current statement of the balance on hand or deficit.

9. Section 11-213(a), HRS, reads as follows: Primary and initial special election. Each candidate whether or not successful in a primary or initial special election, authorized person in the case of a party, or campaign treasurer in the case of a committee, shall file a final primary report certified pursuant to section 11-195 with the commission on forms provided by the commission no later than 4:30 p.m. on the twentieth calendar day after a primary or initial special election. The report shall include the following information which shall be current through the day of the primary election:

- (1) A statement of the total contributions and campaign receipts received;
- (2) The amount and date of deposit of each contribution and the name and address of each donor who contributes an

aggregate of more than \$100 during an election period,  
which has not previously been reported;

- (3) The amount and date of deposit of each contribution and the name and address, employer, and occupation of each donor who contributes an aggregate of \$1,000 or more during an election period which, has not previously been reported;
- (4) A statement of all expenditures made, incurred, or authorized by or for a candidate including the name and address of each payee and the amount, date, and purpose of each expenditure; and
- (5) The cash balance and a statement of surplus or deficit.

- 10. Section 11-213(c), HRS, reads as follows: General, special general, special election or election period. Each candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall file a final election period general report with the commission on forms provided by the commission, no later than 4:30 p.m. on the thirtieth calendar day after a general, special general, or special election. The final election period report shall be certified pursuant to section 11-195, shall report all items prescribed in subsection (a) or (b) for noncandidate committees, and shall be current through the day of the general election. A candidate who is unsuccessful in a primary or special primary election shall file a final election period report.



11. The Commission finds that Respondents DFHC and Tanonaka did not report contributions received from Respondents Hata (\$33,000), Tsai (\$15,000), Furutani (\$25,000), and Masatsugu (\$10,000).

12. The Commission finds that Respondents DFHC and Tanonaka did not report expenditures relating to Professional Results, Inc.

VII. Settlement Terms

As final settlement of the matter and issues in Docket 05-03, Respondent DFHC and Tanonaka understand and agree to the following:

- (1) To an assessment of **Seven Thousand Five Hundred Dollars (\$7,500)** pursuant to section 11-228, HRS.
- (2) To file amended disclosure reports by April 15, 2006 with the Commission by reporting the contributions received from Hata, Tsai, Furutani, and Masatsugu.
- (3) To file amended disclosure reports by April 15, 2006 with the Commission by reporting the unpaid expenditures relating to Professional Results, Inc.

Executive Director Barbara Wong will recommend to the Commission that the complaints filed in Docket No. 04-05 and 04-06 be dismissed; and that in Docket 05-03 Respondents Hata, Tsai, Furutani, and Masatsugu be dismissed.

Notwithstanding all of the foregoing, nothing in this Agreement shall be deemed to constitute an admission by Respondents DFHC and Tanonaka.

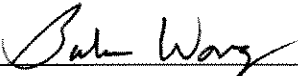
VIII. The Commission upon its own motion or a written request of anyone filing a complaint under section 11-216, HRS, may review compliance

with the Agreement. If the Commission believes that the Agreement has been violated, it may institute administrative proceedings or a civil action in the Circuit Court of the First Circuit pursuant to section 11-228(c), HRS.

- IX. This Agreement shall become effective as of the date that all parties have signed and the Commission has approved the entire Agreement.
- X. This Agreement constitutes the entire agreement between the Commission and DFHC and Tanonaka on the matters raised herein, and no other statement, promise, or agreement, either in writing or oral, not contained in this Agreement made by either party or by agents of either party shall be enforceable.
- XI. This Agreement, unless violated, shall be a complete bar to any further action by the Commission with respect to the violations at issue in this matter and any and all other matters covered by this Agreement.


**FOR THE COMMISSION:**

Barbara Wong, Executive Director

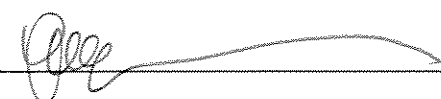
 Date: 11-10-05

**BY THE RESPONDENTS:**

Dalton for Hawaii Campaign

 Date: 11/10/05

Dalton Tanonaka

 Date: 11/10/05